

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FCC LITIGATION

In the Matter of)

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The Development of Operational,)

REPLY COMMENTS TO WT Docket
No. 96-86.

Technical, and Spectrum)

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Requirements for Meeting)

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Federal, State and Local Public)

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Safety Agency Communication)

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Year 2010)

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REPLY COMMENTS OF THE PROJECT 25 STEERING COMMITTEE

The Project 25 Steering Committee hereby submits the following comments in response to some of the comments the Commissions received in response to its Notice of Proposed Rule Making 96-86. These comments are being submitted on behalf of the Project 25 Steering Committee which is the project management team established for the sole purpose of developing voluntary standards on behalf of interested Federal, State and City and County agencies and Associations. The Project 25 Steering Committee is comprised of public safety and communications officials from the States of Georgia, Florida, South Carolina and Colorado; the city of Mesa, Arizona; the University of California at Berkeley; the Northern California Chapter of the Association of Public-Safety Communications Officials, Int. Inc. (APCO); the National Communications System (NCS); the National Telecommunications Information Administration (NTIA), and the National Security Agency (NSA). Each of

these agencies or entities are strong supporters of the user driven Project 25 standards process. The Project 25 Steering Committee is comprised of eleven members, four of whom are appointed by the Association of Public-Safety Communications Officials, International, Inc. (APCO), four of whom are appointed by the National Association of State Telecommunications Directors (NASTD), and three of whom are Federal employees, selected by all the participating Federal agencies who support the process.

These reply comments are submitted by the Project 25 Steering Committee and do not necessarily represent, nor are they intended to represent, the public policy position of the sponsoring agencies or Associations. Each of the Project 25 sponsoring agencies or Associations will articulate their view independently as they deem appropriate.

General Comments:

As a matter of policy, the Project 25 Steering Committee does not normally respond to FCC Notice of Proposed Rule Making and/or Dockets or their subsequent “Reply Comments,” However, since the Project 25 effort has focused its attention on creating standards that obtain maximum utilization of the existing and future channels allocations, within the constraints and limitations already created by previous regulatory and user decisions, we felt an obligation to generally support WT-96-86. We are pleased to support the Federal Communications Commission (FCC) efforts to address the long-term needs of the Public Safety Community. We were also very pleased to see the excellent comments filed by APCO, TIA, Northern California APCO, NASTD, the State of California and many others that generally support our perspective on the issues we chose

to file on. We were also pleased to see both Ericsson and Motorola submit filings that were supportive of Public Safety's urgent need for additional spectrum. Although the Project 25 Steering Committee is not opposed to much of what was in the-above mentioned manufacturers filings, there were certain comments that we feel must not go unchallenged.

Base Line Analog FM, 25 kHz Standard

Ericsson Inc. has recommended the FCC establish a base line, analog FM 25 kHz interoperability standard. We do not support the creation of a "25 kHz analog FM standard" when analog FM is already used in most public safety systems. The Commission should focus its efforts and attention on creating "standards" for new technologies and more spectrum efficient narrow-band channel allocation rather than support the concept of maintaining the status quo through regulatory fiat. The Project 25 Steering Committee strongly believes that all responsible public safety equipment suppliers who are currently building or proposing to build narrow band and/or digital radios will offer equipment that has backward compatibility to 25 kHz, analog FM without the FCC requiring it. Finally, we believe the Commission should provide leadership and set the tone for improving spectrum utilization by looking towards the future and creating standards that take advantage of more narrow band technology, such as 12.5 kHz analog FM or 12.5 kHz digital. The Project 25 Steering Committee remains confident the discriminating public safety users will require some form of backward compatibility without any Federal Communications Rule or Regulation mandating it.

Compliance with Section 273(d)(14) of the Communications Act

Late in the original process, the Commission, for reasons unknown to us, requested comments on a submission from the private sector that recommended the adoption of Rules and Regulations similar to those embodied in Section 273(d)(14) of the Communications Act. As noted in our original filing, we agree with the Commission that Section 273 is not applicable to public safety standards development. The Project 25 Steering Committee strongly supports the excellent filing made by TIA that “the industry is best served by a voluntary consensus standards process, that is pro-competitive, and able to adapt as the industry’s needs change.” We support TIA comments that historically the Commission has severely drained its own man-power resources and struggled to bring regulated standards process to a successful conclusion in a timely manner. Even though as users we find our own-seven year process has been unnecessarily extended because of the opposition of one of our participants, we prefer the seven years it took to complete Project 25 standards to the nine years it took to complete an ISDN standard. We strongly believe voluntary standards such as those being created in our cooperative Project 25/TIA process will accelerate public acceptance and manufacturers production. By doing this we will be able to avoid artificial regulatory and technology barriers like those that have plagued the Commission AM Stereo rule making process. In conclusion, the Project 25 Steering Committee will aggressively oppose any effort by the Commission to impose a section of the Communications Act that is clearly intended for the Common Carriers on the public safety wireless community. Once again we agree with the TIA filing that “Thus as a statutory matter, this Section of the Telecommunications Act of 1996 was not intended by Congress to cover Public Safety wireless equipment.”

Competitive Market

As noted in our original filing, the Project 25 Steering Committee strongly disagrees with most of the assumptions and therefore most of the conclusions cited in Ericsson's submittal to the Federal Communications Commission with regard to competition in the public safety marketplace. We find the conclusion of the two reports cited by Ericsson unconvincing and lacking a factual perspective of what has taken place. We are particularly incensed by the fallacious conclusion in this report that a "dominant market power is in a position to influence standards," and there is "strong evidence that the process actually produced a flawed result...." The Project 25 Steering Committee is convinced that the only thing there is strong evidence of is that the users selected the best technology for their needs and not the best technology for any given company's bottom line. The opponents of Project 25 have made it very clear on numerous occasions that they are acting in what they consider to be their best business interest, a position we do not take fault with. However, we categorically reject any contention that the technologies selected were chosen because they were supported by a dominant provider.

"To the contrary" as the Division of Telecommunications of the State of California noted, "we see much competition in the marketplace with many of the smaller manufacturers willing to provide special features and functions which the large manufacturers do not perceive as being worthwhile." The Project 25 Steering Committee also agrees with the Division of Telecommunications of the State of California that "Despite the objections of Ericsson, Inc. which apparently wants to continue the current proprietary practices of no competition in the after market for system expansion and replacement, APCO Project 25

has succeeded in developing a suite of “standards” which allow several manufacturers to bid not only on the initial installation, but also on later expansions/replacement of both infrastructure and subscriber elements.”

In spite of how Ericsson and its consultants, Jackson & Hatfield, feel about “no new, established, manufacturers” agreeing to produce Project 25 Radios, we are delighted with both the number, quality and depth of the companies who have. Although Ericsson has publicly stated they will not build Project 25 products, Relm, Daniels, ADI, Transcript International, EF Johnson, RACAL, Garmin and Motorola have. Most of our users, will now enjoy for the first time in years an opportunity to obtain competitive bids from quality manufacturers for the life of their system. Even though we would prefer to have Ericsson as one of those suppliers, we recognize and support their need to do what they believe is best for their owners and stockholder.

The Project 25 Steering Committee also takes exception to Ericsson’s contention that in some vague and undefined way the process has reduced competition rather than increased it. They constantly allude to so-called restrictive IPR’s and other MOU issues that would actively prevent them from competing. Although the IPR’s are a matter between the various manufacturers, we have not heard any of the companies that have agreed to build products that they consider any of the IPR terms and conditions negotiated restrictive. In addition, TIA has “encourage the early voluntary disclosure of patents that relate to standards work.” As TIA noted in their original filing, “when potential patents are disclosed, TIA staff contacts the patent holders to ensure that essential patents will be licensed in accordance with the TIA and ANSI IPR policies.” The Project 25 Steering

Committee remains committed to an open and fair process and strongly believes our current past efforts have more than met that criteria.

Conclusion:

The Project 25 Steering Committee supports the concept of manufacturers producing new equipment that is backward compatible to the existing 25 kHz analog FM but we do oppose the concept of creating a regulatory "standard" to achieve that objective. We believe it is counter productive and not in keeping with the Commission's stated objective to seek more efficient spectrum alternatives. The Project 25 Steering Committee opposes any effort to implement formal rules that embody the regulatory concepts of Section 273 (d)(14) of the Communications Act. We also reject Ericsson's contention that the Project 25 process has been flawed and/or that it has failed to engender competition in the public safety land mobile marketplace.

Respectfully Submitted,

Project 25 Steering Committee

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